

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0732-03
Bill No.: Truly Agreed To And Finally Passed SCS for HB 219
Subject: Amends provisions of fencing law.
Type: Original
Date: May 22, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Natural Resources (DNR)** stated the state is not specifically exempted from this legislation. However, the DNR assumes that the state has sovereign immunity from a bill governing political subdivisions. In the past, the DNR has not been obligated to share fencing responsibilities, but has done so voluntarily along the Katy Trail Corridor. Assuming the state is exempted from this proposal, the DNR would not be fiscally impact by this bill. If the state is not exempted from this legislation, there could be future costs for the DNR.

Officials from the **Department of Conservation (MDC)** stated that currently, upon request of an adjoining landowner, the MDC routinely cost shares a legal fence as described by RSMo 272.020. HB 219 does not appear to restrict the MDC's voluntary fencing policy; therefore, the MDC does not anticipate increased fiscal impact.

Officials from the **Department of Agriculture** and **Office of State Courts Administrator** assume the proposed legislation will not fiscally impact their organizations.

Officials from the **Department of Highways and Transportation (DHT)** stated the MoDOT Project Development Manual specifies that all interstate highways shall have continuous fencing to preserve access control. In areas where due to slopes, natural barriers or other means, access control can be achieved without fencing, fencing will not be required.

The Missouri Highways and Transportation Commission (MHTC) has approximately 1,180 miles of interstate routes, 6,800 miles of primary routes, and 24,300 miles of supplementary routes. Since most landowners prefer to install and maintain their own fencing, it is assumed that the MHTC could be responsible for repairs and maintenance of approximately 1/10th of 1 percent of the fencing along primary and supplementary routes $(6,800 + 24,300) * 0.001 = 31.1$ miles of primary and supplementary routes. Assuming that there is fencing on both sides of the road, the total miles of fence to repair/maintain would be 62.2 miles $(31.1 * 2)$.

Due to the lack of accurate numbers to reflect the annual maintenance/repair costs for fencing, the DHT assumes that the maintenance/repair costs are equal to the construction costs divided by the design life. The 2000 Unit Bid book indicates that the statewide average cost to construct wovenwire fencing equals \$16,120 per mile. Assuming a 20 year design, the annual cost for maintenance/repair of fencing would be \$50,133 $[(\$16,120 \text{ per mile cost} * 62.2 \text{ miles}) / 20 \text{ years} = \$50,133]$.

ASSUMPTION (continued)

Since the MHTC would be responsible for only 50 percent of the costs, the annual fiscal impact to the DHT would be \$25,067 (\$50,133/2) for maintenance/repair of fencing on primary and supplementary routes.

Oversight assumes the DHT would not incur additional costs for maintenance/repair of fencing on primary and supplementary routes as a result of the proposed legislation.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses which share fences with adjoining landowners could be affected as a result of this proposal.

DESCRIPTION

This act changes fencing requirements. A lawful fence will consist of post and wire or boards at least 4 feet high. If a party claims damage a court will appoint 3 disinterested persons to inspect the fence and they would be paid \$25 per day which would be taxed as costs in the court case. If a landowner desires to construct or repair a fence the owner must give written notice of the intention to adjoining landowners. The landowners will meet and each construct or repair one half of the common property line. If they cannot agree, they may make application to an associate circuit judge who will appoint three disinterested persons. Any existing agreements not consistent with this procedure must be in writing, signed and recorded. If a landowner fails or refuses to build or repair the landowner's portion of the fence the other landowner may perform the work and apply to the court for reimbursement plus court costs and attorney's fees. Any judgment would then be a lien on the property.

If either landowner does not need a fence the landowner needing the fence may build the entire fence. The landowner would then apply to the associate circuit judge who would authorize the cost to be recorded on each deed. Thereafter if the landowner who claims he or she did not need the fence places livestock on the property the landowner who built the fence would then be

DESCRIPTION (continued)

entitled to be reimbursed for one half of the cost. Nothing will prevent adjoining landowners from agreeing that no fence is needed. Nothing will prevent either of the adjoining landowners from building a fence in excess of the lawful fence requirements.

The provisions for local option remain in current law.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Agriculture
Department of Conservation
Department of Highways and Transportation
Department of Natural Resources
Office of State Courts Administrator



Jeanne Jarrett, CPA
Director

May 22, 2001